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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2015-0051, Sequence No. 5]

**Federal Acquisition Regulation; Federal Acquisition Circular
2005-85; Small Entity Compliance Guide**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This Small Entity Compliance Guide has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005-85, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005-85, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005-85 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755.

Rules Listed in FAC 2005-85

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
*I	Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction (Interim)	2015-011	Davis
*II	Further Amendments to Equal Employment Opportunity	2015-013	Loeb
*III	Updating Federal Contractor Reporting of Veterans' Employment (Interim)	2015-036	Loeb
*IV	Pilot Program for Enhancement of Contractor Employee Whistleblower Protections	2013-015	Davis
V	Retention Periods	2015-009	Glover
*VI	Establishing a Minimum Wage for Contractors	2015-003	Loeb
VII	Technical Amendment		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-85 amends the FAR as follows:

**Item I—Prohibition on Contracting with Corporations with
Delinquent Taxes or a Felony Conviction (FAR Case 2015-011)**

This interim rule amends the Federal Acquisition Regulation to implement sections of the Consolidated and Further Continuing Appropriations Act, 2015, to prohibit the Federal Government from entering into a contract with any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless an agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

This interim rule has no significant impact on the Government and contractors, including small business entities.

**Item II—Further Amendments to Equal Employment Opportunity
(FAR Case 2015-013)**

DoD, GSA, and NASA are issuing a final rule adopting an interim rule published April 10, 2015, without change. The interim rule amended the FAR to implement Executive Order (E.O.) 13672, entitled "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity". E.O. 13672 was signed July 21, 2014.

E.O. 11246, dated September 24, 1965, established requirements for non-discriminatory practices in hiring and employment for Federal contractors and subcontractors. The

bases of discrimination prohibited by E.O. 11246 are race, color, religion, sex, and national origin. E.O. 13672 adds sexual orientation and gender identity to the prohibited bases of discrimination established by E.O. 11246. There is no significant impact on small entities.

Item III—Updating Federal Contractor Reporting of Veterans' Employment (FAR Case 2015-036)

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement a final rule issued by the Department of Labor's Veterans' Employment and Training Service (VETS) that revised the regulations at 41 CFR part 61 implementing the reporting requirements under the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA) and the Jobs for Veterans Act (JVA) (Pub. L. 107-288). VEVRAA requires Federal contractors and subcontractors to annually report on the total number of their employees who belong to the categories of veterans protected under VEVRAA, as amended by the JVA, and the total number of those protected veterans who were hired during the period covered by the report. The VETS rule requires contractors and subcontractors to comply with its revised reporting requirements using the new Form VETS-4212, in lieu of the VETS-100 and VETS-100A, beginning with the annual report filed in 2015.

There is no significant impact on small entities imposed by the FAR rule.

Item IV—Pilot Program for Enhancement of Contractor Employee Whistleblower Protections (FAR Case 2013-015)

This final rule amends the Federal Acquisition Regulation (FAR) to implement a statutory pilot program enhancing whistleblower protections for contractor employees at FAR subpart 3.9. An interim rule was published September 30, 2013. The interim rule created a new FAR section 3.908 to be used by title 41 agencies through January 1, 2017.

The four-year pilot program is mandated by section 828, entitled "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections," of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, enacted January 2, 2013).

This rule has no significant impact on small business concerns.

Item V—Retention Periods (FAR Case 2015-009)

This final rule amends the Federal Acquisition Regulation (FAR) by updating the Government file retention periods to conform with the retention periods in the National Archives and Records Administration (NARA) General Records Schedule (GRS). Language is also added to instruct agencies that require a shorter retention period for certain records to request approval from NARA through the agency's record officer. This rule change does not place any new requirements on small entities; the only change is the

timeframe for retention by the Government of Government records.

Item VI—Establishing a Minimum Wage for Contractors (FAR Case 2015-003)

DoD, GSA, and NASA are issuing a final rule adopting the interim rule published December 15, 2014, with change. The interim rule amended the FAR to implement Executive Order 13658 and a Department of Labor final rule issued on October 7, 2014, both entitled “Establishing a Minimum Wage for Contractors,” which established a new minimum wage for covered service and construction contracts of \$10.10 per hour, as of January 1, 2015. The Executive Order minimum wage will be adjusted annually, by the Department of Labor. Contracting officers will include a clause in covered contracts and will adjust contract prices for the annual adjustments in the Executive Order minimum wage. Contractors shall consider any subcontractor request, including requests by small businesses subcontractors, for a subcontract price adjustment due to the annual adjustment in the Executive Order minimum wage.

There is no significant impact on small entities imposed by the FAR rule.

Item VII—Technical Amendment

Editorial change is made at FAR 1.106.

Dated: November 20, 2015.

William Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

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